

**DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED AMENDMENT OF THE REGULATIONS  
Title 4, Division 9, Chapter 6, Article 5  
Engine Fuel Standards**

INITIAL STATEMENT OF REASONS/  
PLAIN ENGLISH POLICY STATEMENT OVERVIEW

**Background**

The overall mission of weights and measures is to preserve and maintain the standards of measurement essential in providing a basis of value comparison for the consumer and fair competition for industry. The principal task of the Petroleum Products Program is to regulate and enforce the advertising, labeling and quality specifications for motor oils, engine fuels, gear oils, brake fluids, automatic transmission fluids, and engine coolants.

The Legislature has charged the Department of Food and Agriculture (Department) with the responsibility of enforcing weights and measures law within California: Business and Professions Code (B&P Code), Division 5, Section 12103.5. The Secretary of the Department of Food and Agriculture (Secretary) is granted the authority to adopt such regulations as are reasonably necessary to carry out the provisions of the B&P Code, Division 5, Sections 12027, 13440 and 13450.

**Description of the Public Problem, Administrative Requirements, or Other Conditions or Circumstances the Regulations are Intended to Address**

The Department and the Division of Measurement Standards' Petroleum Products Program are charged with the responsibility to establish specifications for engine fuels sold in California. The Department is required to adopt, by reference, the latest standards of a recognized consensus organization or standards writing organization, such as the American Society for Testing and Materials (ASTM). The Department has adopted ASTM standards for gasoline, diesel fuel, kerosene, and fuel oil.

In the absence of such standards, the Department is still statutorily required to establish specifications for engine fuels (B&P Code Sections 13440 and 13450). According to the legislative history of 1993 amendments to Business and Professions Code Section 13401, "AB 2154 requires the Department of Food and Agriculture to establish specifications for gasoline and other automotive spark-ignition engine fuels, and for compression-ignition engine fuel, kerosene and fuel

oil. In adopting these specifications it is the intent of the Department to adopt by reference the latest standards of the American Society for Testing and Materials (ASTM). If there are no ASTM standards for a particular fuel, the Department shall adopt an interim standard established by a recognized consensus organization or standards writing organization. If the ASTM later adopts a standard, it shall be the recognized standard." (Historical and Statutory Notes, West's Annotated California Codes, 2001 Cumulative Pocket Part, Bus. & Prof. Code, sec. 13401.)

California has not adopted standards for Ethanol, Methanol, or Biodiesel engine fuels. The Division is proposing to amend the regulations to adopt standards for those engine fuels. The proposed amendments to Article 5 do several things:

- 1.) Amend the reference to the maximum allowable Reid Vapor Pressure limit, to bring it into compliance with current California Air Resources Board requirements. Additionally, it amends and updates the reference to ASTM D 4814 volatility class specifications for distillation temperatures.
- 2.) Adopt ASTM International specification D 5798 for E85 Ethanol Fuel.
- 3.) Adopt ASTM International specification D 5797 for M85 Methanol Fuel.
- 4.) Adopt ASTM International specification D 6751 for Biodiesel blending stock, adopts interim specifications for Biodiesel blended fuels, and adopts interim specifications for 100% Biodiesel fuel.

A major producer of gasoline in California has protested that the regulation dealing with the 7.8 pounds per square inch Reid Vapor Pressure and ASTM D 4814, volatility class specifications for distillation temperatures is out of date and in need of correction.

The Division of Measurement Standards has also been requested by the Department to adopt a fuel standard for E85 Ethanol Fuel. In their request they indicate that there are nearly 150,000 flexible fueled vehicles operating in California. These vehicles have the option of using ethanol or methanol, agriculture based fuels, as an alternative to petroleum based gasoline. Additionally, the Department is working in a cooperative effort with the National Ethanol Vehicle Coalition to promote several test fueling facilities to promote the use of ethanol fuels.

Finally, the Division of Measurement Standards has been petitioned by the National Biodiesel Board to adopt standards for biodiesel blending stock, biodiesel/petroleum diesel blends and 100% biodiesel fuel. The National Biodiesel Board states that biodiesel is a new and growing fuel in California's marketplace. Also that biodiesel has several positive attributes: it is cleaner burning, it has a higher energy balance, it is a renewable fuel, it has no aromatics and less than 15 parts per million of sulfur, and provides greater lubricity to the blended fuel.

### **Specific Purpose of the Regulation: Necessity**

A major producer of gasoline in California has protested that the regulation dealing with Reid Vapor Pressure and ASTM D 4814, volatility class specifications for distillation temperatures is out of date and in need of correction. The California Air Resources Board (CARB) has made two significant changes to their gasoline specifications. In 1996, Phase 2 Reformulated Gasoline was mandated. CARB also developed Phase 3 Reformulated Gasoline specifications to eliminate methyl tertiary butyl ether (MTBE) from gasoline to meet the mandate that MTBE be removed from gasoline sold in California by December 31, 2003. The current regulations make it difficult for gasoline producers to comply with both the Division of Measurement Standards and the Air Resources Board regulations. This change will allow producers to comply with both agencies requirements.

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Additionally, E85 Ethanol Fuel, M85 Methanol Fuel, and Biodiesel Fuel are currently either being marketed or shortly will be marketed in California. Without appropriate specifications for these motor vehicle fuels and enforcement of those specifications, there is the potential that the motoring public may be sold harmful products that can cause catastrophic damage to their vehicles.

The Department and the Division of Measurement Standards' Petroleum Products Program are charged with the responsibility to establish specifications for engine fuels sold in California. In the absence of the proposed regulation, such sales of E85 Ethanol Fuel, M85 Methanol Fuel, and Biodiesel Fuel are prohibited by California law, B&P Code, Division 5, Chapter 14, Sections 13441 and 13451. The proposed regulation will therefore enable the Department to fulfill its statutory obligation to establish standards for these motor vehicle fuels,

and encourage the use of alternative fuels to help maintain air quality in California. Additionally, this proposal will remove a conflict that gasoline producers may have in trying to comply with both the Department and the Air Resources Board requirements.

### **Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities**

The Department has determined that this proposal does not impose a mandate on local agencies or school districts. The Department has also determined that no costs or savings to any other state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in Federal funding to the State will result from the proposed action.

The cost impact of the changes in the regulation on private persons or businesses is expected to be minor or insignificant.

The Department has also made an initial determination that the action will not have a significant statewide adverse economic impact on housing costs or California business, including the ability of California businesses to compete with businesses in other states.

### **Assessment Regarding Effect on Job/Businesses**

The Department has made an assessment that the proposed regulation may: (1) create jobs within California; (2) create new businesses within California; or (3) affect the expansion of businesses currently doing business in California.

### **Alternatives Considered**

The Secretary must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be as effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to the affected private persons other than the proposed action.

### **Technical, Theoretical, and/or Empirical Study, Reports or Documents**

The Division of Measurement Standards relied on the following documents in drafting the regulatory language of this proposal:

- National Biodiesel Board recommendations contained in their letter to the Division of Measurement Standards, dated February 24, 2003.

- ASTM International Standard D 6751 “Standard Specification for Biodiesel Fuel B100 Blend Stock for Distillate Fuels.”
- E-mail request from Chevron Texaco, dated November 18, 2002, regarding the outdated reference to distillation temperatures and Reid Vapor Pressure for gasoline.
- Air Resources Board regulations for reformulated Phase 3 gasoline.
- The letter of request from the Department of Food and Agriculture, dated March 10, 2003, requesting the Division of Measurement Standards to adopt specifications for E-85 Fuel.
- ASTM International “Standard Specification for Fuel Ethanol (Ed75 – Ed85) for Automotive Spark-Ignition Engines D 5798”
- ASTM International “Standard Specification for Fuel Methanol (M70 – M85) for Automotive Spark-Ignition Engines D 5797”